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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,142	11/29/2000	Julian L. Henley	3824-4	8283
23117	7590	09/23/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			KARMIS, STEFANOS	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/725,142		HENLEY, JULIAN L.	
	Examiner		Art Unit	
	Stefano Karmis		3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17,21,30-35 and 50-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17,21,30-35 and 50-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The following communication is in response to Applicant's amendment filed 24 June 2005.

Status of Claims

2. Claims 1, 15, 21, 30-33, 35, 50, 51, 52, 54 and 55-59 have been currently amended. Claim 54 is previously presented. Claims 2-14, 16, 17, 53 and 60 are left as originally filed. Claims 18-20, 22-29, 36-49 and 61-64 are previously cancelled. Therefore claims 1-17, 21, 30-35 and 50-60 are under prosecution in this application.

Response to Arguments

3. Applicant's arguments, filed 24 June 2005, with respect to the rejection(s) of claim(s) 1-17, 21, 30-35 and 50-60 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view as discussed below.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-9, 12-17, 21, and 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiRienzo, U.S. Patent 6,006,191 in view of Newman et al. (hereinafter Newman) U.S. Patent 6,035,276.

Regarding independent claim 1, 21, 30, and 35 DiRienzo teaches an online method for arranging scheduled delivery of personal medical services from a provider having qualifications, said method comprising: posting online at least one proffered personal medical service in

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association with a provider of such service (column 14, lines 21-41 and column 22, lines 7-28); and receiving online bids for such service as proffered by prospective users of said service (column 22, lines 29-42); in response to receiving an online bid, automatically accessing a maintained database or one or more online commercial data resource s to obtain information describing the health or financial condition of a bid-submitting prospective patient (column 28, lines 27-48).

DiRienzo teaches providing a biography of the physician including medical school attended, publication, affiliations and residency in effort to prove the qualification of the physician (column 17, lines 1-15 and column 36, line 60-65). DiRienzo fails to teach registering a medical service provider and automatically authenticating qualification of said medical service provider to perform a proffered medical service upon obtaining registration information. Newman teaches a medical practitioner credentialing system in which physician credentialing profiles containing physician credentialing information are stored into a system database with application forms and the credentials are verified (Abstract and column 3, lines 10-45). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the biography postings taught by DiRienzo and include verifying credentials of the physician because it provides a further step to proved the physician is capable and possesses the proper credentials to perform the service being proffered.

Claim 2, posting includes proffered specifications received in association with provisions of said proffered service (column 18, lines 1-29).

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Claim 3, said proffered specifications include price, time and location for provision of service (column 23, lines 14-43).

Claim 4, wherein said price is automatically computed based on at least one projected future utilization of the service provider's facility, a predetermined minimum price a predetermined base price (column 21, lines 11-23 and column 30, line 44-47).

Claim 5, DiRienzo fails to teach that the price is computed as a function of the base price plus a fraction of the difference between the minimum price and base price, said fraction being related to projected future utilization of the service provider's facility. Official Notice is taken that determining pricing on factors is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of DiRienzo and include pricing factors such as projected future utilization, facilities, minimum price and base price because they are all elements in determining a fair rate for both parties involved.

Claim 6, specification include conditions precedent to the provision of said service, said conditions precedent including the health and suitability of the prospective user for receiving the proffered service (column 21, lines 11-23).

Claim 7, in response to tentative online agreement between a prospective service provider and a prospective user, providing contract details to the provider and/or user to permit direct

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follow-up communication there between to finalize the tentative online agreement (column 30, lines 23-43).

Claims 8 and 9, DiRienzo fails to teach the manner in which payment is sent. Official Notice is taken that determining payment method is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of DiRienzo and include payment methods because it is common information to transmit during a financial transaction for settlement to occur.

Claim 12, obtaining online information about the prospective user's health or financial condition and supplying such information to said service provider for use in determining an online response to the prospective user's bid for service provision (column 21, lines 11-23).

Claims 13 and 14, MOL fails to teach CPT or ICD-9 codes. Official Notice is taken that codes are well known in the medical profession. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of DiRienzo and include posting CPT or ICD-9 codes because it is an efficient manner to communicate all possible information to a service provider when posting information.

Claim 15, obtaining a performance price of donated or discounted services performed by a provider of a personal medical service for use in logging and tracking tax credit information (column 16, lines 46-53).

Claims 16 and 17, receiving online bids includes limiting received bids for a particular proffered service to a predetermined time window (column 23, lines 14-43).

Claims 31 and 32, DiRienzo teaches providing a biography of the physician including medical school attended, publication, affiliations and residency in effort to prove the qualification of the physician (column 17, lines 1-15 and column 36, line 60-65). DiRienzo fails to teach registering a medical service provider and automatically authenticating qualification of said medical service provider to perform a proffered medical service upon obtaining registration information. Newman teaches a medical practitioner credentialing system in which physician credentialing profiles containing physician credentialing information are stored into a system database with application forms and the credentials are verified (Abstract and column 3, lines 10-45). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the biography postings taught by DiRienzo and include verifying credentials of the physician because it provides a further step to prove the physician is capable and possesses the proper credentials to perform the service being proffered.

Claims 33 and 34, receiving an offer to buy the medical service posted at a specified price and storing the price (column 23, lines 14-43).

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8. Claims 10, 11, and 50-57, rejected under 35 U.S.C. 103(a) as being unpatentable over DiRienzo, U.S. Patent 6,006,191 in view of Newman et al. (hereinafter Newman) U.S. Patent 6,035,276 in further view of Feinberg U.S. Patent 6,366,891.

Regarding independent claim 10, 11, and 50-57, DiRienzo teaches an online method for arranging scheduled delivery of personal medical services from a provider having qualifications, said method comprising: posting online at least one proffered personal medical service in association with a provider of such service (column 14, lines 21-41 and column 22, lines 7-28); and receiving online bids for such service as proffered by prospective users of said service (column 22, lines 29-42); in response to receiving an online bid, automatically accessing a maintained database or one or more online commercial data resource s to obtain information describing the health or financial condition of a bid-submitting prospective patient (column 28, lines 27-48).

DiRienzo teaches providing a biography of the physician including medical school attended, publication, affiliations and residency in effort to prove the qualification of the physician (column 17, lines 1-15 and column 36, line 60-65). DiRienzo fails to teach registering a medical service provider and automatically authenticating qualification of said medical service provider to perform a proffered medical service upon obtaining registration information. Newman teaches a medical practitioner credentialing system in which physician credentialing profiles containing physician credentialing information are stored into a system database with application forms and the credentials are verified (Abstract and column 3, lines 10-45). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to

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modify the biography postings taught by DiRienzo and include verifying credentials of the physician because it provides a further step to prove the physician is capable and possesses the proper credentials to perform the service being proffered.

DiRienzo teaches that the system provides information on the physician such as medical school attended, publications, affiliations, residencies, etc. However, DiRienzo fails to teach feedback information for such a service. Feinberg teaches an on-line auction in which seller information includes prior history of seller's transactions, comments from previous buyers who purchased items from the seller, and other information about the seller (column 4, lines 37-51). Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of providing information related to the physician to include feedback as taught by Friedberg because both auction systems are trying to inform the buyer and provide an accurate description of the credentials of the seller.

9. Claims 58-60, rejected under 35 U.S.C. 103(a) as being unpatentable over DiRienzo, U.S. Patent 6,006,191 in view of Newman et al. (hereinafter Newman) U.S. Patent 6,035,276 in further view of Rackson et al. (hereinafter Rackson) U.S. Patent 6,415,270.

Regarding independent claim 58-60, DiRienzo teaches an online method for arranging scheduled delivery of personal medical services from a provider having qualifications, said method comprising: posting online at least one proffered personal medical service in association with a provider of such service (column 14, lines 21-41 and column 22, lines 7-28); and

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receiving online bids for such service as proffered by prospective users of said service (column 22, lines 29-42); in response to receiving an online bid, automatically accessing a maintained database or one or more online commercial data resource s to obtain information describing the health or financial condition of a bid-submitting prospective patient (column 28, lines 27-48).

DiRienzo teaches providing a biography of the physician including medical school attended, publication, affiliations and residency in effort to prove the qualification of the physician (column 17, lines 1-15 and column 36, line 60-65). DiRienzo fails to teach registering a medical service provider and automatically authenticating qualification of said medical service provider to perform a proffered medical service upon obtaining registration information.

Newman teaches a medical practitioner credentialing system in which physician credentialing profiles containing physician credentialing information are stored into a system database with application forms and the credentials are verified (Abstract and column 3, lines 10-45). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the biography postings taught by DiRienzo and include verifying credentials of the physician because it provides a further step to proved the physician is capable and possesses the proper credentials to perform the service being proffered.

DiRienzo teaches bidding with consideration factors to determine a desired bid price. However, DiRienzo fails to teach adjusting the bid for the service. Rackson teaches an auction coordination method and system in which factors such as timeliness and seller feedback are used to adjust a bid. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teaching of DiRienzo and include adjusting bids because it

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allows the patients to coordinate the bid more precisely with the factors as taught by DiRienzo especially if the factors are to change.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted
Stefano Karmis
15 September 2005


HANI M. KAZIMI
PRIMARY EXAMINER